



**Kariuki v Climax Coaches Limited (Cause 231 of 2018)  
[2023] KEELRC 496 (KLR) (28 February 2023) (Ruling)**

Neutral citation: [2023] KEELRC 496 (KLR)

**REPUBLIC OF KENYA  
IN THE EMPLOYMENT AND LABOUR RELATIONS COURT AT NAIROBI  
CAUSE 231 OF 2018  
J RIKA, J  
FEBRUARY 28, 2023**

**BETWEEN**

**JOSEPH KAMAU KARIUKI ..... CLAIMANT**

**AND**

**CLIMAX COACHES LIMITED ..... RESPONDENT**

**RULING**

1. The Respondent has raised preliminary objection on the doctrine of sub judice. It is submitted that the Claimant filed CMEL Cause No 2382 of 2019 against the Respondent, over the same subject matter of unfair termination. The Respondent states that as of today, the Cause in the Chief Magistrate's Court is actively pending.
2. The Claimant answers that CMEL Cause No 2382 of 2019 was abandoned in March 2021.
3. Unfortunately, the Parties have not availed to this Court the Pleadings, Proceedings or Orders made in CMEL Cause No 2382 of 2019, to enable the Court make an informed decision on whether the Claim is sub judice.
4. The Court has nonetheless noted, that the Claimant herein was earning a monthly salary of Kshs 12,000, and the Claim herein can properly be articulated at the Chief Magistrate's Court.
5. It is not clear from the record how one Fenus Oronji, who is not an Advocate, has taken over the representation of the Claimant. The Claim was not filed by any trade union, and the Claimant has not pleaded membership of any trade union. This is a matter that the Parties may wish to argue at the appropriate forum, alongside the preliminary objection on sub judice.

**IT IS ORDERED: -**

- a. The Claim is transferred to the Chief Magistrate's Court Milimani Nairobi, for hearing and disposal.



b. Costs in the cause.

**DATED, SIGNED AND RELEASED TO THE PARTIES ELECTRONICALLY AT NAIROBI,  
UNDER THE MINISTRY OF HEALTH AND JUDICIARY COVID-19 GUIDELINES, THIS 28<sup>TH</sup>  
DAY OF FEBRUARY 2023.**

**James Rika**

**Judge**

